

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EVERGREEN EAST COOPERATIVE,

Plaintiff,

v.

BOTTOMLEY EVERGREENS &
FARMS, INC., *et al.*

Defendants.

20-cv-00184-AJN

Hon. Alison J. Nathan

**DEFENDANTS' NOTICE OF MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

PLEASE TAKE NOTICE that the undersigned attorneys for Defendants Bottomley Evergreens & Farms, Inc. ("Bottomley") and The Home Depot, Inc. ("Home Depot") (collectively, "Defendants") in the above-referenced matter, request oral argument and will move this Court, before the Honorable Alison J. Nathan, at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007, on a date and time designated by the Court, for an Order, pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing with prejudice, in whole or in part, Plaintiff's Complaint. In support, Defendants submit their Memorandum of Law in Support of the Motion to Dismiss, which is being filed contemporaneously.

DATED: April 13, 2020

Respectfully submitted,

CROWELL & MORING LLP

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Inc. and The Home Depot, Inc.*